

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-207252.2

DATE: November 10, 1982

MATTER OF: ALCO Power, Inc.

DIGEST:

Where protester alleges that amended specifications for diesel engine RPM speeds are unduly restrictive of competition, contracting agency is required to make prima facie case that specifications are related to its minimum needs. However, once contracting agency has made prima facie case, protester must bear burden of affirmatively proving its case. Protester fails to carry this burden when its arguments do not clearly show that agency's determination of its actual minimum needs has no reasonable basis.

ALCO Power, Inc. (ALCO), protests the issuance of amendment No. 0011 to N62474-81-R-8610, for the procurement of diesel electric power generators for the Puget Sound Naval Shipyard in Bremerton, Washington. The amendment allows manufacturers to offer five diesel generator sets instead of the six units originally specified, but fails to provide for other changes that ALCO contends are necessary. ALCO alleges that the amended specifications are, therefore, unduly restrictive of competition. We deny the protest.

ALCO states that for it to remain competitive under amendment No. 0011 and to offer five generator sets for the project, the specifications must further be amended to allow a 240 brake mean effective pressure (BMEP) for four-cycle engines instead of the current 225 BMEP. ALCO also requests the rotational speed of the units be increased to 900 rpm's instead of the 720 rpm's specified.

The Navy has responded to the protest by agreeing to an increase to 230 BMEP for four-cycle engines, but has continued to deny the request for increased rotational speed. The Navy determined the use of higher speed units would result in increased maintenance costs, reduced life

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expectancy of the units, and reduced use availability. Also, the Navy determined the 720-rpm speed was appropriate for a standby diesel engine--defined as for use more than 1,000 hours and less than 3,000 hours per year--and would satisfy the Navy's minimum needs requirement.

The determination of the Government's minimum needs and the best method of accommodating those needs is primarily the responsibility of the contracting agencies. We have recognized that the Government procurement officials, since they are the ones most familiar with the conditions under which supplies, equipment or services have been used in the past and how they are to be used in the future, are generally in the best position to know the Government's actual needs. Consequently, we will not question an agency's determination of its actual minimum needs unless there is a clear showing that the determination has no reasonable basis. Frequency Electronics, Inc., B-204483, April 5, 1982, 82-1 CPD 303.

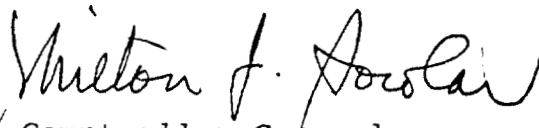
However, when a protester challenges a specification as unduly restrictive of competition, the burden is on the procuring agency to establish prima facie support for its contention that the restrictions it imposes are needed to meet its minimum needs. But, once the agency establishes this prima facie support, the burden is then on the protester to show that the requirements complained of are clearly unreasonable. Mid-Atlantic Industries, Inc., B-202682, August 26, 1981, 81-2 CPD 181.

As indicated above, the Navy has stated its bases for the restrictions. We find this is the prima facie support that the contracting agency must provide when a protester challenges a specification as unduly restrictive of competition. In light of this, the burden is thus on ALCO to prove that the Navy's requirements are clearly unreasonable.

ALCO presents no arguments, technical or otherwise, to refute the Navy's determination. We have already noted that the determination of an agency's minimum needs is largely a matter of discretion on the part of the agency's contracting officials. It is also important to note that a procuring

agency's technical conclusions concerning its actual needs are entitled to great weight and will be accepted unless there is a clear showing that the conclusions are arbitrary. Industrial Acoustics Company, Inc., et al., B-194517, February 19, 1980, 80-1 CPD 139. ALCO has not shown that the Navy's determination was arbitrary or unreasonable and has not satisfied its burden of proof. Walter Kidde, Division of Kidde, Inc., B-204734, June 7, 1982, 82-1 CPD 539. Therefore, we have no basis to find the specifications of amendment No. 0011 unduly restrictive of competition. Mid-Atlantic Industries, Inc., supra.

The protest is denied.

for 
Comptroller General
of the United States